

Asian Framework on Indigenous Knowledge and Data Sovereignty

Preamble

We, the Indigenous Peoples of Asia, with distinct worldview, law, language, and culture, and distinct social, economic, and political institutions, have gathered to define and reclaim our right to Indigenous Knowledge and Data Sovereignty (IKDS) in accordance with the rights recognized by the United Nations Declaration on the Rights of Indigenous Peoples in the year 2007, and other applicable international human rights instruments, conventions, and covenants.

In Asia—given the distinctiveness of our identity from the minorities, other natives, and the mainstream societies of the countries we reside in—we were referred to by different names such as “ethnic minorities,” “hill tribes,” “tribal people,” “aboriginal people,” “native people,” “chuncheat,” “upajati,” “sakai,” or “fan,” which have derogatory connotations. However, the UNDRIP has recognized us as peoples with the same right to self-determination accorded to all peoples by the United Nations.

We are the descendants of our ancestors, who inhabited the territory which was incorporated within the present State boundaries in Asia without our consent; reinforced by the heroic history and memory of the enduring strength of our ancestors who fought and sustained the community in times of threat to survival, we are determined to defend our rights and continue the legacy for time immemorial.

Our land, the water, and the sky are where we belong. They are living entities that sustain life and are the source of our spirituality, wisdom, and knowledge such as philosophy, art, music, song, dance, legends, myths, food, clothing, medicines, fuel, and other things necessary for our existence and well-being.

We give thanks and acknowledge our ancestors for the knowledge that emanated from our ancient ties with the land, water, and sky through a collective process of knowledge propagation and accumulation passed down from generation to generation for our well-being and the continuity of our identity; thereby, we as a collective are sovereign over our knowledge and endowed with sacred responsibility.

Our holistic worldview emphasizes the relational values of living and non-living things, including humans and nature as an interrelated community, and guardianship of and spiritual relationships to lands and territories that call for the co-responsibility for the well-being of all human beings, non-human life, and respect for nature.

Our holistic and unique worldview gave rise to the relational values and principles that permeate and define all aspects of our society such as jurisprudence, education, politics, religion, rituals, customs, technology, recreation, language, economics, medicine, and philosophy, and serves as a unifying motive for treating everyone as equal, including nature.

Our knowledge is indivisible, and individual components are parts of a whole and are applied and governed by relational values and principles through collective guardianship based on reciprocity, individual competencies, and sharing of responsibilities where self-serving individualism is absent.

Our holistic knowledge system is a window into indigenous worldview and is inherently shaped by indigenous values, including those of collectiveness and reciprocity, that make indigenous knowledge distinctive in its forms and values systems, and is an important tool for our self-governance.

Our knowledge held by individuals, knowledge-holders, or groups, is of crucial importance to maintaining our cultural identity, creating solutions to conflict through indigenous justice, managing the risks and impacts of climate change, protecting biodiversity, achieving sustainable development, and building resilience in the face of extreme events such as those resulting from climate change, environmental destruction, or zoonotic diseases.

Indigenous knowledge is knowledge that belongs to Indigenous Peoples found in our territories, and our knowledge system embodies both traditional knowledge and practices and innovation and discoveries that we continue to develop for our common good.

By virtue of the ageless essence of the indigenous philosophy of life, our heritage is a continuum that unites us with our ancestors, and is endowed with the sacred responsibility to our children and to the generations that will follow us.

We, the Indigenous Peoples of Asia, assume the commitment and responsibility incumbent upon the present generation to reclaim sovereignty over our heritage and to continue to protect and develop our knowledge in perpetual respect for our ancestors and future generations and the sacredness of the land, water, and sky.

Our reality

In most countries in Asia, governments fail to recognize our identity as Indigenous Peoples as per international law and to address historical injustices; they do not recognize our sovereignty over our knowledge and data, or our roles as customary owners and custodians, which has detrimental consequences for Indigenous Peoples in particular, and for humanity at large.

In Asia, only a few countries legally recognize the term Indigenous Peoples as per international law and have nominally granted us political or cultural rights. In countries where legal frameworks on tenure rights partially exist and where Court judgements have been in our favor, implementation and enforcement are ignored.

We continue to suffer the impacts of historical injustice, where protected areas are created and access denied and expansion of logging and extractive industries are taking place without our free, prior, and informed consent, or through manipulated, selective consultation processes erroneously called consent.

We have experienced and continue to experience evictions, violence, and forced relocations in the name of national interest and security, development and conservation, forced occupation, militarization of our lands and territories as well as promulgation of martial and terror laws. The digital transformation of knowledge and data has exacerbated red-tagging, misinformation and disinformation, and the perpetuation of physical violence into online spaces has led to trumped up charges, extrajudicial killings, disappearances, and torture.

In Asia, our right to Intellectual Property is not recognized and respected with endemic experiences of bio-piracy, appropriation of our cultural expressions, misappropriation and misrepresentation of our knowledge, commercialization of our knowledge and data without sharing benefits, and making our knowledge available in the public domain without our consent.

We are seeing that external influences and conflicts are giving rise to internal division and internalization of violence where our institutions are breaking down with increasing violence and abuse against children and women. This requires reconciliation within and between communities, and for men, women, and all members of the community to support one another in revitalizing our knowledge systems and the re-building of our communities.

We are seeing that criminalization and discrimination of our knowledge system is contributing to the rapid loss of indigenous knowledge, as irrelevant and inferior; yet we continue to rely on it as our primary health systems, justice systems, resources management systems, and livelihood,

We are seeing that our languages are vanishing, our youth are migrating to urban areas, and indigenous livelihood systems and practices are being abandoned as a consequence of modernization and modern education systems that deliberately deny our knowledge, practices, history, and culture from being taught in schools; this contributes to a lack of awareness of, appreciation for, and the disappearance of our knowledge systems and their undervaluing and absence of documentation.

We are seeing that—while the open data revolution intends to democratize access to information—the absence of a level playing field (including infrastructure and technology access) for the governance of institutions, stewardship decisions, and determination of protocols over the collection, storage, analysis, use, and re-use of indigenous knowledge and data, the negative impact for indigenous peoples in Asia is far reaching.

We are seeing that loss of biodiversity and climate change are exacerbating the loss of indigenous knowledge due the change in environmental patterns and degeneration of ecosystems, and many of the solutions for climate change and biodiversity conservation are detrimental to the rights and practices of Indigenous Peoples.

Documentation of world's biodiversity shows that vast majority of the world's biodiversity is in indigenous lands and territories; 50% of the drugs currently used are derived from medicinal plants; more than 80% of the world's population has made use of some form of traditional knowledge as a form of self-care in health; and in some countries, 70% of the population use traditional medicines as a means for primary health care.¹

Likewise, the fact that the majority of Asia's biodiversity is found in indigenous lands and territories, and that several countries in Asia are highly dependent on traditional knowledge—including indigenous knowledge—for their primary health care, calls for urgent attention and recognition for practical applications within and beyond Indigenous Peoples to ensure that this knowledge is preserved, documented, shared, and appreciated.

Where the sovereignty of Indigenous Peoples over their knowledge and data are recognized; where respectful and equitable partnership exists between States and Indigenous Peoples in the protection, utilization, and sharing of benefits, we see a win-win outcome in the greater service of humanity.

1. Definition of terms

1.1. Indigenous knowledge and data

Indigenous data are units and pieces of information, symbols, and characters about Indigenous Peoples, which, when contextualized and combined, shapes indigenous knowledge. In this definition, we refer to data, information, and knowledge, in any format, that informs and impacts indigenous communities, nations, and peoples at the collective and individual levels—meaning that all knowledge and data about Indigenous Peoples is indigenous knowledge and data. These also pertain to, and include:

¹ <https://mtci.bvsalud.org/en/the-contributions-of-traditional-medicine/>

- Knowledge and data about Indigenous resources and environments—land and sub-soil resources, water, geology, landscapes, air, soil, sacred sites, territories, plants, animals, associated genetic resources, cosmogony, etc.
- Knowledge and data about Indigenous Peoples as individuals—administrative, legal, health, social, dream interpretation, commercial, corporate, services, etc.
- Knowledge and data about Indigenous Peoples as collectives—traditional and cultural information, archives, oral histories, language, literature, art, symbols, rituals, artifacts, ceremonies, ancestral and clan knowledge, stories, philosophies, technologies, belongings, etc.

1.2. Knowledge and data sovereignty

Knowledge and data sovereignty refers to the inherent rights and interests of Indigenous Peoples over their knowledge and data in relation to its creation, collection, ownership, and application; our sovereign right over it is by virtue of inheritance from our ancestors and embodied in our worldview and identity, and we continue its development for the well-being and continuity of our identity with sacred responsibility.

1.3. Knowledge and data governance

Knowledge and data governance refers to the principles, structures, accountability mechanisms, community protocols, legal instruments, and customary laws and practices through which Indigenous Peoples and their communities exercise their right to authority and control over their knowledge and data.

2. Basic guiding principles of the regional framework on Indigenous Knowledge and Data Sovereignty

The basic guiding principles of the Asian Regional Framework on Indigenous Knowledge and Data Sovereignty (IKDS) are:

- a. Acknowledgement that all living and non-living things—all humans and non-human nature—are an interrelated community, and thus the value of:
 - Caring for the people
 - Caring for the lands, territories, and resources
 - Caring for all other living and non-living things
- b. Respect for the inherent essence of being human, and that all humans are responsible towards one another and to nature, and thus the value of: integrity, dignity, respect, equality, fairness, justice, reciprocity, and sharing.
- c. Respect for our sovereignty and interests in knowledge and data derived from our inherent rights as Indigenous Peoples, and our unique relationships with the land, water, and sky.
- d. Acknowledgement that knowledge held and perpetuated by all members of the community are of crucial worth and value.

- e. Respect for the fact that the data created and the knowledge produced inherently belong to the creator and exist to serve the common good and to be collectively governed.
- f. Respect for the right to intellectual property and the promotion of human rights, including, among others, the individual and collective rights enshrined in the Universal Declaration of Human Rights, the UN Declaration on the Rights of Indigenous Peoples, and international conventions and covenants signed and ratified by States.
- g. Respect for the preservation and strengthening of identity, cultural integrity, customary institutions, customs, and traditions, and authority and control over our lands, territories, and resources.

3. Principles of indigenous knowledge and data sovereignty

The principles of Indigenous Knowledge and Data Sovereignty (IKDS) are grounded in the following:

3.1 Governance and authority

3.1.1 Self-governance

- Self-governance of Indigenous Peoples in Asia, by and large, is grounded in customary governance systems with a strong village or community as its foundation, where the primary authority for the governance of IKDS resides.
- Ensure that gender equality and participation is prioritized in decision-making bodies of customary institutions and decision-making processes with reference to IKDS.

3.1.2 Authority and control

- Indigenous Peoples and their communities have an inherent right to exercise authority and control over their knowledge and data ecosystems as determined in their respective protocols or other instruments the community freely chooses, and is used to further their right to self-determination; this right includes, but is not limited to, the creation, collection, access, analysis, interpretation, management, security, dissemination, use, and re-use of their knowledge and data.
- Customary institutions have the responsibility to ensure the appropriate use or application of sacred cultural manifestations, such as sacred knowledge, symbols, or words, and to protect those knowledge forms from being acquired under intellectual property rights or being trademarked by external parties.
- Indigenous Peoples and their communities shall decide which knowledge and data shall be controlled or open to access at different levels; this includes protocols for what knowledge and data are to be shared with open access, with restrictions, or closed.
- Indigenous Peoples and their institutions have the right to have the final say on the dissemination of indigenous knowledge and data held by non-indigenous persons, and information shared with non-indigenous persons shall be validated by the concerned indigenous groups or communities before publication or dissemination, in all forms and uses.

3.1.3 Representation

- Representation on behalf of the community on matters relating to IKDS shall be endorsed by their appropriate customary authority and legitimized by the members of the community or in accordance with their established protocols or instruments.

3.1.4 Accountability

- Individuals, community institutions and organizations, or any institutions and agencies, including governments and companies, responsible for the creation and co-creation, collection, analysis, management, access, security, or dissemination of Indigenous Peoples and their communities' knowledge and data are accountable to the communities, groups, and individuals from whom the knowledge and data are derived.
- Customary institutions or bodies set up by the community for the purpose of securely storing their knowledge and data on behalf of the community shall be accountable to the members of the community as trustees in accordance with their protocol(s) or any instrument(s) they so choose.
- Any authorities or bodies set up by the community shall take all measures to prevent knowledge and data misrepresentation, misappropriation, and theft in accordance with their protocol(s) or any other instrument(s) they choose and shall be accountable to the members of the community.
- Knowledge and data collected, sourced, and/or managed shall be governed transparently in compliance with best practices and relevant procedures and mechanisms to allow easy accessibility and understandability within and beyond the community. The key purpose of transparency in this is to ensure that knowledge or data is collected with proper consent and is used ethically, as well as to allow informed decision making, hold the responsible individual or entity accountable, and improve communication.

3.1.5 Consent

- The principle of free, prior, and informed consent (FPIC) shall underpin the collection and use of all knowledge and data from or about Indigenous Peoples and their communities; all FPIC processes, for both defined and less defined types of consent, shall start with a consultation process defined by community protocol(s) or any other instrument(s) developed by the community as a prior step for determining the community's approval or refusal to enter into the FPIC process.

The terms of use of indigenous knowledge or data products shared with or held by non-indigenous groups must allow for future review by the Indigenous Peoples and their communities, and must allow for revocation of consent or the ability to enter into new agreement at a future point in order to ensure that they maintain control over their knowledge and data.

3.1.6 Context

- All data has an origin and genealogy; accurate metadata should, at minimum, provide information on the evidence of FPIC, the origin of the data, the purpose(s) for its collection, the context of its collection, and the parties involved.

3.1.7 Data disaggregation

- Disaggregated data increases its relevance for Indigenous Peoples and their communities and kinship; the knowledge and data collected shall be coded using categories that prioritize Indigenous Peoples and their communities' needs and aspirations.
- Indigenous Peoples shall identify the scope, objective, and classification of data disaggregation or aggregation to ensure effective self-governance, develop inclusive structures, and articulate the specific needs and intersections within their citizenship based on indigenous values and indigenous agendas.

3.1.8 Future use

- Current decision-making over Indigenous Peoples and their communities' knowledge and data can have long-term consequences, good and bad, for their future generations; a key goal of knowledge and data governance shall be to protect against future harm as a safeguard for the future generations.

3.1.10 Self-determination

- Indigenous Peoples and their communities have the inherent right to knowledge and data that enables self-determination and effective self-governance.

3.2 Dispute Resolution and Reconciliation

- Any dispute or counter claim over knowledge and data ownership or interpretation shall respect *sogit*² (a Dusun concept and practice) to restore balance, relationship, and harmony within or between communities and with nature with honesty and humility; this may include further development of specific protocols and mechanisms for dispute resolution and reconciliation.

3.3. Obligations

3.3.1. Balancing rights

- Indigenous communities shall determine the scope, terms, and benefit-sharing mechanisms arising from the value of their knowledge and data and ensure reciprocity as an intrinsic practice.
- Individuals' rights, risks, and benefits in relation to knowledge and data need to be balanced with those of the group (of which they are a part) with reciprocal benefit and the responsibility to serve the common good; in some contexts, collective rights and common good of the community shall prevail over those of individuals if construed as arbitrary in nature.

²Sogit is a concept and customary practice of the Dusun community in Sabah, Malaysia for restoring balance and harmony in the community when violation or disruption occurs in the relationship within the community or against nature. The Dusun believe that nature and humans will undergo a situation of 'heat' (fights within the community, or unpredictable weather, crop failure, sickness, etc. when it is against nature) when violation or disruption occurs. Therefore, they believe that Sogit is needed which means to cool the 'heat' or calm down (body, mind, and spirit) to restore balance and normalcy.

3.4. Collective asset and benefit

- All individuals shall contribute to the collective asset of the community, and tangible and intangible benefits derived from it shall serve the individual and collective needs of the community with fairness and equity, and with special attention to women, knowledge holders, children, and persons with special needs such as persons with disability, orphans, widows and widowers, the elderly, etc. for the common good of the community.
- Knowledge and data ecosystems shall be designed and function in ways that enable Indigenous Peoples and their communities to derive individual and collective benefit through reciprocity as determined by the community and their collective goals.

3.5 Ethics and guardianship

3.5.1 Ethics

- Community protocol(s) or any other instruments freely chosen and developed by the community and their customary institution(s) shall underpin the protection of, access to, and use of their knowledge and data.
- Respect for the importance of indigenous knowledge and data and its practical applications within and beyond Indigenous Peoples will ensure that our knowledge is preserved, documented, shared and appreciated.
- The collection, use, and interpretation of knowledge and data shall uphold the dignity of Indigenous Peoples and their communities, groups, and individuals. They shall maintain complete control over the assessment of future harm arising from the use or misuse of data generated about them and have the liberty to deny access at any stage, free from any form of coercion.
- Data analysis and knowledge used that stigmatizes or blames any communities can result in collective and individual harm and shall be actively avoided.
- Indigenous knowledge and data that are in the public domain or in the possession of public or private institutions or entities, and indigenous heritage such as cultural objects, human remains, and archeological items taken out of their possession without their consent, must be recovered and returned for their empowerment and for recovery of their spiritual and cultural integrity.

3.5.2 Guardianship

- Indigenous Peoples and their communities' knowledge and data shall be secured, stored, and transferred in such a way that it enables and reinforces the capacity of the community to exercise guardianship over their knowledge and data.
- Guardianship entails awareness and embodiment of the interconnectedness and relational values between people, community, nature, and spirits, awareness of the common good from which the sacred laws of dignity, respect, freedom, reciprocity, harmony, and self-governance are derived, and defines and determines the bundle of rights regarding authority, ownership, access, use, re-use, and ways to address inequality, as well as stewardship of the collective.

4. Duties of the States

States, as duty bearers, have the following obligations and responsibilities for the realization of Indigenous Knowledge and Data Sovereignty (IKDS) principles:

- States have the moral obligation and are bound by international law to recognize and respect Indigenous Peoples' sovereignty over their knowledge and data and to extend protection to Indigenous Peoples and their communities against external individuals and entities to prevent the external acquisition of intellectual property rights over indigenous knowledge, its theft, misappropriation, and misrepresentation of cultural expressions.
- States have the obligation and responsibility to protect and respect the defensive strategies of Indigenous Peoples and their communities to protect sacred cultural manifestations, such as sacred knowledge and symbols or words, from external parties seeking to acquire intellectual property rights over them or registering them as trademarks.
- States have the obligation and responsibility to legally recognize IKDS principles, to ensure the provision of the necessary support to develop structures, mechanisms, and processes in collaboration with Indigenous Peoples for the realization of IKDS principles, and to empower them to promote their knowledge, control its uses, and benefit from its commercial application.
- States have the obligation and responsibility to ensure that indigenous knowledge and data that are in the public domain or in the possession of public or private institutions, and indigenous heritage such as cultural objects, human remains, and archeological items taken out of their possession without their consent, are recovered and returned to honor the historical and cultural roots of those knowledge and objects and the spiritual and cultural integrity of Indigenous Peoples.
- To promote the adoption of these principles by private entities, investors, financial institutions, civil society organizations, multilateral agencies and donors; and encourage these actors to commit to transparency in these principles' implementation, the adoption of joint participatory assessments, meaningful and effective cooperation with independent monitoring mechanisms involving Indigenous Peoples, and reporting on the effectiveness of implementation measures, as well as zero tolerance for violation of these principles and rights.

5. Our Rights

We recognize various types of rights on IKDS—such as those ascribed to individuals, knowledge holders, communities, and types of knowledge and data—which shall be separately and specifically determined in accordance with local context, variance, and priorities.

Advancing these Asian IKDS Principles will enable and encourage the development of innovative collective responses and solutions to the collection, access, analysis, interpretation, management, security, dissemination, use, and re-use of our knowledge and data. To ensure consistency with developments in international human rights law and intellectual property

rights regime(s) with reference to Indigenous Peoples, emerging best practice, and the aspirations of Indigenous Peoples in Asia, the Principles outlined herein shall be periodically reviewed and updated, as appropriate and applicable.

6. Capacity building

Indigenous Knowledge and Data Sovereignty (IKDS) requires the development of Indigenous Peoples' and communities' talent and energy to enable the creation, collection, management, security, administration, governance, and application of knowledge and data effectively and in accordance with Indigenous values.

To promote the adoption, implementation and exercise of these IKDS principles, Indigenous Peoples must be fully capacitated through meaningful cooperation and collaboration with the States, private entities, investors, financial institutions, civil society organizations, multilateral agencies and donors. Capacity building of Indigenous Peoples must be to:

- Ensure availability and access to resources and mechanisms towards the development of IKDS literacy, technology, infrastructure, and strengthening indigenous institutions for preserving indigenous knowledge to enable indigenous stewardship and IKDS governance.
- Ensure awareness about data protection mechanisms and legal instruments to gain control over the use of indigenous knowledge and data, and tools to take corrective action and prevent misappropriation.
- Encourage connections between Indigenous Peoples and their communities in their respective countries and at the regional level shall be supported to enable the sharing of lessons learned, good practices and strategies, resources, and ideas regarding IKDS to strengthen one another in the spirit of mutual respect and fraternity, and the attainment of common goals.

